

Award No. 3599

Docket No. 3505

2-CUT-SM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Wilmer Watrous when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 150 RAILWAY EMPLOYES'
DEPARTMENT AFL-CIO—SHEET METAL WORKERS**

CINCINNATI UNION TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1—Compensate upgraded Sheet Metal Worker Helper W. T. Vance one (1) day's pay at pro rata rate of pay for non-compliance with the 60 day clause in the February 4, 1953 Promotional Agreement.

2—Compensate upgraded Sheet Metal Worker Helper W. T. Vance thereafter effective May 2, 1958 for every day deprived to work account the Carrier allowing C. C. Daniels to displace him off of promoted position.

EMPLOYES' STATEMENT OF FACTS: The Cincinnati Union Terminal Company hereinafter referred to as the carrier and System Federation No. 150, negotiated and signed an agreement for advancing apprentices, helper apprentices and helpers to positions of mechanics' rate, with effective date of May 19, 1942.

Four years later the carrier and System Federation No. 150 negotiated and signed an agreement to effect seniority for helpers who were promoted to positions of mechanics' rate, with effective date of December 1, 1946.

Under date of November 12, 1951, the sheet metal workers' organization terminated the two above agreement. The carrier acknowledge the termination notice under date of November 14, 1951.

Under date of February 4, 1953, the carrier and system Federation No. 150 negotiated and signed an agreement for the sheet metal workers' craft to advance apprentices, helper apprentices and helpers to mechanics' rate.

Sheet Metal Worker Helper W. T. Vance, hereinafter referred to as the claimant, was employed by the carrier November 22, 1942, as a sheet metal worker helper; upgraded to mechanics' position by mutual agreement between the carrier and the general committee May 21, 1944, and worked as such until January 14, 1946, which is one year, seven months and twenty three days, then

(b) Foremen or supervisors returned to the ranks of Shop Craft Mechanics through no voluntary action of their own, may take the position held by any junior mechanic of his craft at point employed. All other employes affected by such changes will be accorded the same privilege of exercising their seniority rights."

At no time had Mr. Daniels ever been demoted or set back as helper, therefore he was allowed to return to the classification he held prior to his promotion as foreman. In returning he displaced another upgraded helper, Mr. Vance, the claimant in this case.

Item 2 of the claim is for a day's pay for Claimant Vance for every day he was deprived of work due to Mr. Daniels working. During the period from April 1, 1958 to March, 1959 when Claimant Vance and Mr. Daniels were both furloughed Mr. Vance worked 224 days and Mr. Daniels worked 231 days.

The key case of the four cases filed is Docket 3449 CUT-SM as Docket 3448 and Docket 3450 and this case will be predicated on the decision rendered in Docket 3449 as to whether Mr. C. C. Daniels has any rights as a helper.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The findings in Award No. 3596 and Award No. 3597 are applicable to this award. The carrier was in violation of Paragraph 6 of the Memorandum of Agreement of February 4, 1953.

Since Daniels was properly placed on claimant's seniority roster, Vance was not deprived of work when Daniels exercised his seniority to displace Vance on May 2, 1958.

AWARD

Part 1 of claim sustained.

Part 2 of claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1960.